

## **Remarks/Arguments**

Reconsideration is respectfully requested. Claims 1-5 and 7-39 are pending. Claims 1-5 and 7-39 are rejected.

For the reasons set forth below, Applicants respectfully submit that all pending claims are allowable.

### **I. Obviousness Rejections**

Claims 1-5 and 7-39 are rejected under 35 USC 103(a) as being unpatentable over US Patent No. 5,711,861 (Ward, et al.) in view of US Patent No. 6,579,690 (Bonnetcaze, et al.). See Office Action page 3.

Applicants note that the cited reference US Patent No. 6,579,690 ('690 Patent) issued on June 17, 2003 which is after the effective filing date of the present application of April 30, 1998. Accordingly, the '690 Patent is qualified as a 102(e) reference under Title 35. Moreover, notwithstanding the Examiner's obviousness rejections of the pending claims under 35 USC §103(a), the appropriate section for the obviousness rejection is, 103(c) in view of the '690 Patent. Under 35 USC §103(c), a 102(e) reference that is used to establish obviousness may be disqualified if the present application and the 102(e) reference are commonly owned or subject to an obligation of assignment to a same person at the time the claimed invention was made.

Applicants submit that the present application and the '690 Patent were, at the time the invention was made, commonly owned or subject to an obligation of assignment to the same entity at the time the claimed invention was made.

Based on the foregoing, Applicants respectfully submit that the '690 patent does not qualify as prior art and accordingly, the Examiner's obviousness rejections are moot. Therefore, Applicants respectfully submit that all pending claims are allowable.

Accordingly, Applicants respectfully submit that all pending claims are allowable, and request the Examiner's early examination of the pending claims in the present application. In the event that the Examiner deems a telephonic or in person discussion would be helpful in advancing the prosecution of the present application, Applicants respectfully request the Examiner to contact Applicants' representative at (510) 652-6418, x82.

Respectfully submitted,  
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Dated: September 4, 2009

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